

REMARKS

Status of the Claims

Withdrawn - Claims 1-10

Currently Amended - Claims 11, 12, 15, 20, and 21

Previously Presented - Claim 17 and 18

Cancelled - Claims 13, 14, 16, and 19

Claim Rejections Under 35 U.S.C. § 112

The Examiner has rejected claims 11, 12, 14, 15, and 17-21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner has noted that in claim 11, lines 6 and 7, the step of providing a singular third party spending vehicle is recited but in lines 9 and 10, a plurality of third party spending vehicle providers is recited. Applicant has amended claim 11 to indicate that a taxpayer selects a spending vehicle from a plurality of spending vehicles offered by a plurality of third party spending vehicle providers. The selected spending vehicle is offered by one of the third party spending vehicle providers. Applicant respectfully submits claim 11 as amended overcomes the Examiner's rejection.

The Examiner has further rejected claim 12 as an improper attempt at a Markush grouping. Applicant has amended claim 12 and respectfully submits amended claim 12 overcomes the Examiner's rejection.

Finally, the Examiner has rejected claim 20 as depending upon a cancelled claim. Applicant has amended claim 20 to depend upon independent claim 11. Applicant respectfully submits amended claim 20 overcomes the Examiner's rejection.

Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 11, 12, 17, and 18 under 35 U.S.C. § 102(b) as being anticipated by Longfield 523. It is the Examiner's position Longfield teaches the present invention including a third party spending vehicle that is provided to a taxpayer in exchange for an assignment of the taxpayer's income tax refund. Applicant has amended independent claim 11 to indicate more clearly that a taxpayer selects a spending vehicle, executes an assignment of a portion of his or her tax refund to the provider of the spending vehicle, and then receives the spending vehicle in exchange for the assignment of the income tax refund. In view of Applicant's amended claims, Applicant respectfully traverses the rejections.

Longfield teaches refund anticipation loans and credit cards secured by a taxpayer's tax refund. A taxpayer who completes an application for a refund loan has the option of also applying for a secured credit card. Regardless of which option is selected, the taxpayer must provide loan application data, must complete a loan agreement, and must pass a credit check. Col. 3, ll. 6-8: "It is also necessary to validate tax return data and loan application data as is shown in block 30." (Emphasis added). Col. 5, ll. 31-35: "The loan application is also compared to a master credit data file to validate the credit worthiness of the applicant tax filer. A failure of this test will result in an error return to the originating tax preparer the next day." (Emphasis added) Col. 6,

II. 12-16: "This secured credit card option may be selected by the taxpayer when completing a RAL application along with the amount of the credit line and corresponding collateral desired (usually anywhere from \$500-\$3000). Once the PAL [sic] application is approved a credit card can usually be mailed to the taxpayer within 48 hours by a credit card company." (Emphasis added). The loan application is integral to the Longfield process and must be completed by the taxpayer to receive a RAL or secured credit card.

It is also important to note that in Longfield, the risk for non-payment of the refund or non-payment of the full amount of the anticipated refund remains with the taxpayer regardless of whether the taxpayer accepts a loan or credit card. In the case of a RAL, the taxpayer is responsible for the entire loan until it is paid back in full. In the case of the credit card, if the taxpayer defaults, a Certificate of Deposit based on the amount of the tax refund is used to satisfy the credit card debit. The requirement that taxpayers apply for a loan and assume responsibility for default on the loan is a disadvantage of the prior art that the present invention overcomes.

In contrast to the teachings of Longfield, the present invention does not require a taxpayer to complete a RAL application and agreement. It also does not require a taxpayer to pass a credit worthiness test. Instead, a taxpayer simply executes an assignment form transferring his or her tax refund rights to a spending vehicle provider of choice. The spending vehicle provider accepts the assignment and in exchange, issues a spending vehicle. Unlike Longfield which provides the taxpayer with a loan and/or credit card within one to two days of completing a RAL application and agreement, a spending vehicle provider may wait to issue a spending vehicle to a

taxpayer until confirmation of the taxpayer's refund amount is received or until the tax refund is deposited in an account established for the spending vehicle provider.

The use of an assignment form rather than a RAL application and agreement results in significant benefits for taxpayers and providers of spending vehicles. First, taxpayers are not required to complete lengthy RAL applications and agreements. [Pg. 3, ll. 2-5; Pg. 4, ll. 9-1 of Applicant's specification]. In addition, because an assignment (which transfers a property right to another party) is used, the liability for non-payment of the tax refund or non-payment of the full amount of the tax refund is shifted to the spending vehicle providers. Spending vehicle providers that are concerned about liability may wait to receive the tax refund or confirmation of the tax refund amount prior to issuing the spending vehicle.

Although taxpayers may be required to wait for spending vehicles under the system and method of the present invention, they are relieved from the costs and overhead associated with RAL applications and agreements. They also benefit from increased competition among spending vehicle providers. Financial institutions as well as retailers, wholesalers, distributors, etc. that cannot participate in the system of Longfield (because legally they cannot process RAL applications and agreements and are not permitted to establish IRS deposit accounts) can participate in the system and method of the present invention. The ability for entities other than financial institutions to participate means that taxpayers will be able to choose from a greater number of spending vehicles and spending vehicle providers. The participating spending vehicle providers may be more willing to increase the value of the spending vehicles they

provide in order to attract more taxpayers to their respective businesses. Taxpayers therefore benefit from increased spending power.

Claim Rejections Under 35 U.S.C. § 103

The Examiner has further rejected claims 11, 15, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Longfield in view of Credit Card News. It is the Examiner's position Credit Card News teaches a refund amount such as a cash back bonus that may be doubled in value. It is the Examiner's position it would be obvious to one of skill in the art to modify the credit card in Longfield to have an increased value feature.

Applicant respectfully disagrees that it would be obvious to one of skill in the art to modify the credit card of Longfield to have an increased value feature. In fact, Longfield teaches away from a credit card with increased value because the credit card in Longfield is secured and therefore, requires that the card holder provide collateral in case of default. Col. 2, ll. 16-19. The secured credit card in Longfield is backed by a Certificate of Deposit (CD) in the amount of the taxpayer's tax refund and the purpose of the CD is to guarantee "payment to the credit card issuer should the credit card user fail to pay off his charges when due and payable." Col. 6, ll. 43-45. Applicant respectfully submits that increasing the spending value of a credit card above the amount of the collateral (i.e., the tax refund) is completely contrary to the teaching of Longfield which requires spending value equal to or below the amount of the collateral that is used for "guaranteed payment" in the event of a default. If the taxpayer is permitted to spend beyond the secured amount, then the "guaranteed payment" feature of Longfield is

defeated and the secured credit card of Longfield becomes an unsecured credit card. Applicant respectfully submits there is no suggestion in the prior art to combine Longfield and Credit Card News to provide unsecured credit cards to high credit risk taxpayers and therefore, Credit Card News cannot be combined with Longfield to support the present rejections.

The present invention allows entities such as retailers, wholesalers, distributors, etc. to offer spending vehicles to taxpayers in exchange for an assignment of the taxpayers' tax refunds. Such entities do not have an opportunity to participate in the RAL application and agreement process of the prior art. Spending vehicle providers that participate in the process of the present invention benefit from the increased revenue and opportunity to offer products or services to more taxpayers. They also have an opportunity to compete for taxpayer refunds by offering spending vehicles that exceed the value of the taxpayers' refunds. Taxpayers, in turn, benefit from increased spending power.

Applicant respectfully submits that the present application is now in condition for allowance and respectfully requests such action.

Respectfully submitted,

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